

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **01/16/2009**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Weidner**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Property - exemption**

Extra Copies:

Submit via email: **NO**

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### **Pre Topic:**

DOA:.....Weidner, BB0437 -

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### **Topic:**

Property tax exemptions for biotechnology and manufacturing research

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 01/16/2009	wjackson 01/17/2009		_____			State Tax
/1			phenry 01/20/2009	_____	cduerst 01/20/2009		

FE Sent For:

<END>

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/?	jkreye 01/16/2009	wjackson 01/17/2009	lrb_lps				State Tax

FE Sent For:

1 WLj 1/17

bu  
Dh

ph / JF

<END>

**2007 ASSEMBLY BILL 770**

February 6, 2008 - Introduced by Representatives KLEEFISCH, SMITH, STRACHOTA, KERKMAN, TOWNSEND, TURNER, VAN ROY, SEIDEL, GRONEMUS and MUSSER, cosponsored by Senators KREITLOW, KANAVAS, DARLING, SULLIVAN, LEIBHAM, KAPANKE, KEDZIE and ROESSLER. Referred to Committee on Jobs and The Economy.

do not give

- 1 AN ACT *to amend* 71.21 (3), 71.26 (2) (a), 71.26 (3) (n), 71.365 (3) and 71.45 (2)  
 2 (a) 10.; and *to create* 70.11 (27m), 70.111 (27), 71.28 (4m), 71.30 (3) (db), 71.47  
 3 (4m), 71.49 (1) (db) and 77.54 (50) of the statutes; **relating to:** an income and  
 4 franchise tax credit for research conducted in this state by a corporation and a  
 5 property and sales and use tax exemption for certain machinery and tangible  
 6 personal property used to conduct research.

the budget

***Analysis by the Legislative Reference Bureau***

Under current law, a corporation may claim an income and franchise tax credit in an amount equal to 5 percent of its qualified research expenses, as defined by the Internal Revenue Code, for research conducted in this state. In addition, a corporation may claim an income and franchise tax credit equal to 5 percent of the amount that it paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined by the Internal Revenue Code.

Under this bill, a corporation may also claim an income and franchise tax credit equal to the amount of its qualified research expenses in the taxable year for research conducted in this state that exceeds the amount equal to the average amount of the corporation's qualified research expenses in the previous three taxable years multiplied by 1.25. If the credit claimed by a corporation exceeds the corporation's tax liability, the state will not issue a refund, but the corporation may carry forward any remaining credit to five subsequent taxable years.

head  
 TAXATION  
 PROPERTY TAXATION  
 Subhead

## ASSEMBLY BILL 770

This bill <sup>2</sup>also creates a property tax exemption and a sales and use tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 70.11 (27m) of the statutes is created to read:

**70.11 (27m) RESEARCH MACHINERY AND EQUIPMENT.** (a) In this subsection:

1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

2. "Machinery" has the meaning given in sub. (27) (a) 2.

3. "Manufacturing" has the meaning given in sub. (27) (a) 3.

4. "Primarily" means more than 50 percent.

5. "Qualified research" means qualified research as defined under section 41

(d) (1) of the Internal Revenue Code.

6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

(b) Machinery and equipment, including attachments, parts, and accessories, used by persons who are engaged primarily in manufacturing or biotechnology in this state and are used exclusively and directly in qualified research.

**SECTION 2.** 70.111 (27) of the statutes is created to read:

**70.111 (27) RESEARCH PROPERTY.** (a) In this subsection:

1. "Biotechnology" has the meaning given in s. 77.54 (50) (a) 1.

2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.

3. "Primarily" means more than 50 percent.

*No if the owner of the property fulfills the requirements under*

*§ 70.35A*

INSERT  
A

INSERT  
2-1

INSERT 2-3  
from 7-4 to  
7-10

USE 2X

## ASSEMBLY BILL 770

*Not* If the owner of the property fulfills the requirements under s. 70.035<sup>Δ</sup>

1 4. "Qualified research" means qualified research as defined under section 41

2 (d) (1) of the Internal Revenue Code.

3 5. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

4 (b) <sup>★</sup>Tangible personal property used by persons who are engaged primarily in  
5 manufacturing or biotechnology in this state, if the tangible personal property is  
6 consumed or destroyed or loses its identity while being used exclusively and directly  
7 in qualified research.

8 **SECTION 3.** 71.21 (3) of the statutes is amended to read:

9 71.21 (3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a  
10 partnership or by partners, including partners of a publicly traded partnership.

11 **SECTION 4.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,  
12 is amended to read:

13 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
14 the gross income as computed under the Internal Revenue Code as modified under  
15 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
16 computed under s. 71.28 (1), (3), (4), (4m), and (5) minus, as provided under s. 71.28  
17 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
18 under this paragraph at the time that the taxpayer first claimed the credit plus the  
19 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
20 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k) and  
21 not passed through by a partnership, limited liability company, or tax-option  
22 corporation that has added that amount to the partnership's, limited liability  
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus  
24 the amount of losses from the sale or other disposition of assets the gain from which  
25 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or

## ASSEMBLY BILL 770

## SECTION 4

1 otherwise disposed of at a gain and minus deductions, as computed under the  
2 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an  
3 amount equal to the difference between the federal basis and Wisconsin basis of any  
4 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction  
5 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 5.** 71.26 (3) (n) of the statutes is amended to read:

7 71.26 (3) (n) Sections 381, 382 and 383 (relating to carry-overs in certain  
8 corporate acquisitions) are modified so that they apply to losses under sub. (4) and  
9 credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to  
10 federal credits and federal net operating losses.

11 **SECTION 6.** 71.28 (4m) of the statutes is created to read:

12 71.28 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this  
13 subsection, "qualified research expenses" means qualified research expenses as  
14 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
15 Internal Revenue Code, that are paid or incurred for research conducted in this state.

16 (b) *Credit.* Subject to the limitations provided under this subsection, for  
17 taxable years beginning on or after January 1, 2010, a corporation may claim as a  
18 credit against the tax imposed under s. 71.23, up to the amount of those taxes, and  
19 against no more than 50 percent of the claimant's tax liability, an amount equal to  
20 the amount of qualified research expenses paid or incurred by the corporation in the  
21 taxable year that exceeds the amount calculated as follows:

22 1. Determine the average amount of the qualified research expenses paid or  
23 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
24 year for which a credit is claimed under this subsection.

25 2. Multiply the amount determined under subd. 1. by 1.25.

6

**ASSEMBLY BILL 770**

1 (c) *Limitations.* Subsection (4) (b) to (d) and (i), as it applies to the credit under  
2 sub. (4), applies to the credit under this subsection.

3 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
4 under sub. (4), applies to the credit under this subsection.

5 2. If a credit computed under this subsection is not entirely offset against  
6 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
7 carried forward and credited against Wisconsin income or franchise taxes otherwise  
8 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
9 due in all intervening years between the year in which the expense was incurred and  
10 the year in which the carry-forward credit is claimed.

11 **SECTION 7.** 71.30 (3) (db) of the statutes is created to read:

12 71.30 (3) (db) Super research and development credit under s. 71.28 (4m).

13 **SECTION 8.** 71.365 (3) of the statutes is amended to read:

14 71.365 (3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5)  
15 may not be claimed by a tax-option corporation or shareholders of a tax-option  
16 corporation.

17 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act  
18 20, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
20 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),  
21 (5j), and (5k) and not passed through by a partnership, limited liability company, or  
22 tax-option corporation that has added that amount to the partnership's, limited  
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
24 (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

25 **SECTION 10.** 71.47 (4m) of the statutes is created to read:

6

## ASSEMBLY BILL 770

## SECTION 10

1       **71.47 (4m) SUPER RESEARCH AND DEVELOPMENT CREDIT.** (a) *Definition.* In this  
2 subsection, “qualified research expenses” means qualified research expenses as  
3 defined in section 41 of the Internal Revenue Code, not including section 41 (h) of the  
4 Internal Revenue Code, that are paid or incurred for research conducted in this state.

5       (b) *Credit.* Subject to the limitations provided under this subsection, for  
6 taxable years beginning on or after January 1, 2010, a corporation may claim as a  
7 credit against the tax imposed under s. 71.43, up to the amount of those taxes, and  
8 against no more than 50 percent of the claimant’s tax liability, an amount equal to  
9 the amount of qualified research expenses paid or incurred by the corporation in the  
10 taxable year that exceeds the amount calculated as follows:

11           1. Determine the average amount of the qualified research expenses paid or  
12 incurred by the corporation in the 3 taxable years immediately preceding the taxable  
13 year for which a credit is claimed under this subsection.


14           2. Multiply the amount determined under subd. 1. by 1.25.

15       (c) *Limitations.* Section 71.28 (4) (b) to (d) and (i), as it applies to the credit  
16 under sub. (4), applies to the credit under this subsection.

17       (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
18 credit under sub. (4), applies to the credit under this subsection.

19           2. If a credit computed under this subsection is not entirely offset against  
20 Wisconsin income or franchise taxes otherwise due, the unused balance may be  
21 carried forward and credited against Wisconsin income or franchise taxes otherwise  
22 due for the following 5 taxable years to the extent not offset by these taxes otherwise  
23 due in all intervening years between the year in which the expense was incurred and  
24 the year in which the carry-forward credit is claimed.

25       **SECTION 11.** 71.49 (1) (db) of the statutes is created to read:





## ASSEMBLY BILL 770

1 71.49 (1) (db) Super research and development credit under s. 71.47 (4m).

2 SECTION 12. 77.54 (50) of the statutes is created to read:

3 77.54 (50) (a) In this subsection:

INSERT 2-3 + 2-15

4 1. "Biotechnology" means the application of biotechnologies, including  
5 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
6 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses,  
7 that use living organisms or parts of an organism to produce or modify products to  
8 improve plants or animals or improve animal health, develop microorganisms for  
9 specific uses, identify targets for small molecule pharmaceutical development, or  
10 transform biological systems into useful processes and products.

11 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

12 3. "Manufacturing" has the meaning given in sub. (6m).

13 4. "Primarily" means more than 50 percent.

14 5. "Qualified research" means qualified research as defined under section 41  
15 (d) (1) of the Internal Revenue Code.

16 6. "Used exclusively" has the meaning given in sub. (3) (b) 3.

17 (b) The gross receipts from the sale of and the storage, use, or other  
18 consumption of:

19 1. Machinery and equipment, including attachments, parts, and accessories,  
20 that are sold to persons who are engaged primarily in manufacturing or  
21 biotechnology in this state and are used exclusively and directly in qualified  
22 research.

23 2. Tangible personal property that is sold to persons who are engaged primarily  
24 in manufacturing or biotechnology in this state, if the tangible personal property is

ASSEMBLY BILL 770

INSERT  
8-2

1 consumed or destroyed or loses its identity while being used exclusively and directly  
2 in qualified research.

3 **SECTION 13. Initial applicability.**

4 (1) The treatment of sections 70.11 (27m) and 70.111 (27) of the statutes first  
5 applies to the property tax assessments as of January 1, 2009.

6 **SECTION 14. Effective dates.** This act takes effect on the day after publication,  
7 except as follows:

8 (1) The treatment of section 77.54 (50) of the statutes takes effect on January  
9 1, 2009.

10 (END)

38028(2)(b)20

7035(1) and (2), 7036(1m),  
70995(12r), 73006(3), 76025(1),  
76081, 79095(title), (2)(a), (3), and (4),  
and 121006(4)

**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1573/?ins  
JK:.....

**Insert A**

Under current law, computers are exempt from the property tax. The state, however, compensates the taxing jurisdictions in which tax-exempt computers are located for the amount of the property taxes that the jurisdictions would otherwise have collected on such property. Under the bill, the state compensates the taxing jurisdictions in which tax-exempt research property is located for the amount of the property taxes that the jurisdictions would otherwise have collected on such property.

**Insert 2 - 1**

**SECTION ~~1~~ 38.28 (2) (b) 2.** of the statutes is amended to read:

**38.28 (2) (b) 2.** The most current equalized values certified by the department of revenue shall be used in aid determinations. Equalized values shall include the full value of property that is exempt under ~~s. 70.11~~ <sup>ss.</sup> 70.11 (27m), (39), and (39m) and s. 70.111 (27) as determined under s. 79.095 (3).

**History:** 1971 c. 154, 211; 1973 c. 90; 1975 c. 39, 224; 1977 c. 29, 418; 1979 c. 34, 221; 1981 c. 20, 269; 1983 a. 27; 1985 a. 29; 1985 a. 332 s. 251 (3); 1987 a. 27, 399; 1989 a. 31, 102, 336; 1991 a. 39, 322; 1993 a. 16, 377, 399, 437; 1995 a. 27 ss. 1812, 9145 (1); 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25.

**Insert 8 - 2**

**SECTION ~~2~~ 70.35 (1)** of the statutes is amended to read:

**70.35 (1)** To determine the amount and value of any personal property for which any person, firm or corporation should be assessed, any assessor may examine such person or the managing agent or officer of any firm or corporation under oath as to all such items of personal property, the taxable value thereof as defined in s. 70.34 if the property is taxable and the fair market value if the property is exempt under s. 70.11 (27m), (39), or (39m) or s. 70.111 (27). In the alternative the assessor may require such person, firm or corporation to submit a return of such personal property and of the taxable value thereof. There shall be annexed to such return the declaration of such person or of the managing agent or officer of such firm or corporation that the statements therein contained are true.

**History:** 1977 c. 29 ss. 750, 1646 (3); 1983 a. 189 s. 329 (20); 1997 a. 237; 2001 a. 16.

SECTION ~~3~~ 70.35 (2) of the statutes is amended to read:

70.35 (2) The return shall be made and all the information therein requested given by such person on a form prescribed by the assessor with the approval of the department of revenue which shall provide suitable schedules for such information bearing on value as the department deems necessary to enable the assessor to determine the true cash value of the taxable personal property, and of the personal property that is exempt under ~~s. 70.11 (27m), (39), and (39m)~~ <sup>ss.</sup> and ~~s. 70.111 (27)~~ <sup>plain</sup> that is owned or in the possession of such person on January 1 as provided in s. 70.10.

The return may contain methods of deriving assessable values from book values and for the conversion of book values to present values, and a statement as to the accounting method used. No person shall be required to take detailed physical inventory for the purpose of making the return required by this section.

History: 1977 c. 29 ss. 750, 1646 (3); 1983 a. 189 s. 329 (20); 1997 a. 237; 2001 a. 16.

SECTION ~~4~~ 70.36 (1m) of the statutes is amended to read:

70.36 (1m) Any person, firm or corporation that fails to include information on property that is exempt under ~~s. 70.11 (27m), (39), and (39m)~~ <sup>ss.</sup> and ~~s. 70.111 (27)~~ on the report under s. 70.35 shall forfeit \$10 for every \$100 or major fraction thereof that is not reported.

History: 1973 c. 90; 1991 a. 156, 316; 1997 a. 237; 2001 a. 16, 102.

SECTION ~~5~~ 70.995 (12r) of the statutes is amended to read:

70.995 (12r) The department of revenue shall calculate the value of property that is used in manufacturing, as defined in this section, and that is exempt under ~~s. 70.11 (27m), (39), and (39m)~~ <sup>ss.</sup> and ~~s. 70.111 (27)~~.

History: 1973 c. 90, 283, 333; 1975 c. 39, 144, 199, 200, 213, 224; 1977 c. 29 ss. 776 to 782, 1646 (3), 1647 (5m), 1656 (38); 1977 c. 31, 142, 272; 1977 c. 300 ss. 7, 8; 1977 c. 328, 377, 418, 447; 1979 c. 34 ss. 883m, 2102 (39) (g); 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 275 s. 15 (8); 1985 a. 29; 1985 a. 120 s. 3202 (46); 1987 a. 27, 196, 399; 1989 a. 31; 1991 a. 39, 269; 1993 a. 307, 391; 1995 a. 227, 408; 1997 a. 35, 237, 250; 1999 a. 32; 2001 a. 16, 109; 2003 a. 33, 170.

SECTION ~~6~~ 73.06 (3) of the statutes is amended to read:

73.06 (3) The department of revenue, through its supervisors of equalization, shall examine and test the work of assessors during the progress of their assessments and ascertain whether any of them is assessing property at other than full value or is omitting property subject to taxation from the roll. The department and such supervisors shall have the rights and powers of a local assessor for the examination of persons and property and for the discovery of property subject to taxation. If any property has been omitted or not assessed according to law, they shall bring the same to the attention of the local assessor of the proper district and if such local assessor shall neglect or refuse to correct the assessment they shall report the fact to the board of review. If it discovers errors in identifying or valuing property that is exempt under s. 70.11 (27m), (39), or (39m) or s. 70.111 (27), the department shall change the specification of the property as taxable or exempt and shall change the value of the property. All disputes between the department, municipalities and property owners about the taxability or value of property that is reported under s. 79.095 (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the procedures under s. 70.995 (8).

History: 1973 c. 90; 1977 c. 449; 1981 c. 20; 1983 a. 275 ss. 11, 15 (3) to (6); 1983 a. 538 s. 269 (3); 1987 a. 399; 1997 a. 237; 2001 a. 16.

**SECTION 7. 76.025 (1)** of the statutes is amended to read:

76.025 (1) The property taxable under s. 76.13 shall include all franchises, and all real and personal property of the company used or employed in the operation of its business, excluding property that is exempt from the property tax under <sup>ss.</sup> ~~s.~~ 70.11 (27m), (39), and (39m) and s. 70.111 (27), such motor vehicles as are exempt under s. 70.112 (5), and treatment plant and pollution abatement equipment exempt under s. 70.11 (21). The taxable property shall include all title and interest of the company referred to in such property as owner, lessee or otherwise, and in case any portion of

1 the property is jointly used by 2 or more companies, the unit assessment shall include  
2 and cover a proportionate share of that portion of the property jointly used so that  
3 the assessments of the property of all companies having any rights, title or interest  
4 of any kind or nature whatsoever in any such property jointly used shall, in the  
5 aggregate, include only one total full value of such property.

History: 1997 a. 35 ss. 267 to 269, 271, 272; 1999 a. 9; 2001 a. 16; 2007 a. 19.

6 **SECTION 8.** 76.81 of the statutes is amended to read:

7 **76.81 Imposition.** There is imposed a tax on the real property of, and the  
8 tangible personal property of, every telephone company, excluding property that is  
9 exempt from the property tax under ~~s. 70.11 (27m), (39), and (39m)~~ <sup>ss.</sup> and ~~s. 70.111 (27),~~  
10 motor vehicles that are exempt under s. 70.112 (5), property that is used less than  
11 50% in the operation of a telephone company, as provided under s. 70.112 (4) (b), and  
12 treatment plant and pollution abatement equipment that is exempt under s. 70.11  
13 (21). Except as provided in s. 76.815, the rate for the tax imposed on each description  
14 of real property and on each item of tangible personal property is the net rate for the  
15 prior year for the tax under ch. 70 in the taxing jurisdictions where the description  
16 or item is located. The real and tangible personal property of a telephone company  
17 shall be assessed as provided under s. 70.112 (4) (b).

History: 1995 a. 351; 1997 a. 237; 2001 a. 16; 2007 a. 19.

18 **SECTION 9.** 79.095 (title) of the statutes is amended to read:

19 **79.095 (title) State aid; computers and research property.**

History: 1997 a. 237; 2001 a. 16, 30; 2005 a. 25, 418.

20 **SECTION 10.** 79.095 (2) (a) of the statutes is amended to read:

21 79.095 (2) (a) On or before May 1, the value of the property that is exempt under  
22 ~~s. 70.11 (27m), (39), and (39m)~~ <sup>ss.</sup> and ~~s. 70.111 (27)~~ in each taxing jurisdiction for which  
23 the municipality assesses property.

History: 1997 a. 237; 2001 a. 16, 30; 2005 a. 25, 418.

1           **SECTION 11.** 79.095 (3) of the statutes is amended to read:

2           **79.095 (3) REVIEW BY DEPARTMENT.** The department shall adjust each rate  
3           reported under sub. (2) (b) to a full-value rate. The department shall review and  
4           correct the information submitted under sub. (2) (a), shall determine the full value  
5           of all of the property reported under sub. (2) (a) and of all the property under s. 70.995  
6           (12r) and, on or before October 1, shall notify each taxing jurisdiction of the full value  
7           of the property that is exempt under ~~s. 70.11 (27m)~~<sup>ss.</sup>, (39), and (39m) and ~~s. 70.111 (27)~~<sup>ss.</sup>  
8           and that is located in the jurisdiction. The department shall adjust the full value that  
9           is reported to taxing jurisdictions under this subsection in the year after an error  
10          occurs or a value has been changed due to an appeal. All disputes between the  
11          department and municipalities about the value of the property reported under sub.  
12          (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the  
13          procedures under s. 70.995 (8).

History: 1997 a. 237; 2001 a. 16, 30; 2005 a. 25, 418.

14          **SECTION 12.** 79.095 (4) of the statutes is amended to read:

15          **79.095 (4) PAYMENT.** The department shall calculate the payments due each  
16          taxing jurisdiction under this section by multiplying the full value as of the January  
17          1 of the preceding year of the property that is exempt under ~~s. 70.11 (27m)~~<sup>ss.</sup>, (39), and  
18          (39m) and ~~s. 70.111 (27)~~<sup>ss.</sup> and that is located in the jurisdiction by the full-value gross  
19          tax rate of the jurisdiction for the preceding year. The department shall certify the  
20          amount of the payment due each taxing jurisdiction to the department of  
21          administration, which shall make the payments on or before the first Monday in May  
22          except that, beginning in 2007, the department of administration shall make the  
23          payments on or before the 4th Monday in July. For purposes of ch. 121, school

1 districts shall treat the payments made in July under this subsection as if they had  
2 been received in the previous school year.

History: 1997 a. 237; 2001 a. 16, 30; 2005 a. 25, 418.

3 **SECTION 13.** 121.06 (4) of the statutes is amended to read:

4 121.06 (4) For purposes of computing state aid under s. 121.08, equalized  
5 valuations calculated under sub. (1) and certified under sub. (2) shall include the full

6 value of property that is exempt under ~~s. 70.11~~ <sup>ss.</sup> (27m), (39), and (39m) ~~and s. 70.111~~  
7 (27) as determined under s. 79.095 (3).

History: 1973 c. 61, 90; 1977 c. 29 ss. 1084, 1647 (13); 1977 c. 300 s. 8; 1981 c. 20; 1983 a. 27; 1985 a. 225; 1987 a. 403 s. 256; 1989 a. 336; 1993 a. 307; 1995 a. 27 ss. 4044, 9145 (1); 1997 a. 27, 113, 237; 2001 a. 16.





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1573/1

JK:wlj:ph

DOA:.....Weidner, BB0437 - Property tax exemptions for biotechnology and manufacturing research

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**PROPERTY TAXATION**

This bill creates a property tax exemption for machinery and other tangible personal property used for qualified research by persons engaged primarily in manufacturing or biotechnology in this state.

Under current law, computers are exempt from the property tax. The state, however, compensates the taxing jurisdictions in which tax-exempt computers are located for the amount of the property taxes that the jurisdictions would otherwise have collected on such property. Under the bill, the state compensates the taxing jurisdictions in which tax-exempt research property is located for the amount of the property taxes that the jurisdictions would otherwise have collected on such property.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 38.28 (2) (b) 2. of the statutes is amended to read:

2       38.28 (2) (b) 2. The most current equalized values certified by the department  
3 of revenue shall be used in aid determinations. Equalized values shall include the  
4 full value of property that is exempt under ~~s. ss.~~ 70.11 (27m), (39), and (39m) and  
5 70.111 (27) as determined under s. 79.095 (3).

6       **SECTION 2.** 70.11 (27m) of the statutes is created to read:

7       70.11 (27m) RESEARCH MACHINERY AND EQUIPMENT. (a) In this subsection:

8       1. "Biotechnology" means the application of biotechnologies, including  
9 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
10 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses,  
11 that use living organisms or parts of an organism to produce or modify products to  
12 improve plants or animals or improve animal health, develop microorganisms for  
13 specific uses, identify targets for small molecule pharmaceutical development, or  
14 transform biological systems into useful processes and products.

15       2. "Machinery" has the meaning given in sub. (27) (a) 2.

16       3. "Manufacturing" has the meaning given in sub. (27) (a) 3.

17       4. "Primarily" means more than 50 percent.

18       5. "Qualified research" means qualified research as defined under section 41  
19 (d) (1) of the Internal Revenue Code.

20       6. "Used exclusively" has the meaning given in sub. (27) (a) 8.

1 (b) If the owner of the property fulfills the requirements under s. 70.35,  
2 machinery and equipment, including attachments, parts, and accessories, used by  
3 persons who are engaged primarily in manufacturing or biotechnology in this state  
4 and are used exclusively and directly in qualified research.

5 **SECTION 3.** 70.111 (27) of the statutes is created to read:

6 **70.111 (27) RESEARCH PROPERTY.** (a) In this subsection:

7 1. "Biotechnology" means the application of biotechnologies, including  
8 recombinant deoxyribonucleic acid techniques, biochemistry, molecular and cellular  
9 biology, genetics, genetic engineering, biological cell fusion, and other bioprocesses,  
10 that use living organisms or parts of an organism to produce or modify products to  
11 improve plants or animals or improve animal health, develop microorganisms for  
12 specific uses, identify targets for small molecule pharmaceutical development, or  
13 transform biological systems into useful processes and products.

14 2. "Manufacturing" has the meaning given in s. 70.11 (27) (a) 3.

15 3. "Primarily" means more than 50 percent.

16 4. "Qualified research" means qualified research as defined under section 41  
17 (d) (1) of the Internal Revenue Code.

18 5. "Used exclusively" has the meaning given in s. 70.11 (27) (a) 8.

19 (b) If the owner of the property fulfills the requirements under s. 70.35, tangible  
20 personal property used by persons who are engaged primarily in manufacturing or  
21 biotechnology in this state, if the tangible personal property is consumed or  
22 destroyed or loses its identity while being used exclusively and directly in qualified  
23 research.

24 **SECTION 4.** 70.35 (1) of the statutes is amended to read:

1           70.35 (1) To determine the amount and value of any personal property for  
2           which any person, firm or corporation should be assessed, any assessor may examine  
3           such person or the managing agent or officer of any firm or corporation under oath  
4           as to all such items of personal property, the taxable value thereof as defined in s.  
5           70.34 if the property is taxable and the fair market value if the property is exempt  
6           under s. 70.11 (27m), (39), or (39m) or 70.111 (27). In the alternative the assessor may  
7           require such person, firm or corporation to submit a return of such personal property  
8           and of the taxable value thereof. There shall be annexed to such return the  
9           declaration of such person or of the managing agent or officer of such firm or  
10          corporation that the statements therein contained are true.

11          **SECTION 5.** 70.35 (2) of the statutes is amended to read:

12          70.35 (2) The return shall be made and all the information therein requested  
13          given by such person on a form prescribed by the assessor with the approval of the  
14          department of revenue which shall provide suitable schedules for such information  
15          bearing on value as the department deems necessary to enable the assessor to  
16          determine the true cash value of the taxable personal property, and of the personal  
17          property that is exempt under ~~s.~~ ss. 70.11 (27m), (39), and (39m) and 70.111 (27), that  
18          is owned or in the possession of such person on January 1 as provided in s. 70.10.  
19          The return may contain methods of deriving assessable values from book values and  
20          for the conversion of book values to present values, and a statement as to the  
21          accounting method used. No person shall be required to take detailed physical  
22          inventory for the purpose of making the return required by this section.

23          **SECTION 6.** 70.36 (1m) of the statutes is amended to read:

24          70.36 (1m) Any person, firm or corporation that fails to include information on  
25          property that is exempt under ~~s.~~ ss. 70.11 (27m), (39), and (39m) and 70.111 (27) on

1 the report under s. 70.35 shall forfeit \$10 for every \$100 or major fraction thereof that  
2 is not reported.

3 **SECTION 7.** 70.995 (12r) of the statutes is amended to read:

4 70.995 (12r) The department of revenue shall calculate the value of property  
5 that is used in manufacturing, as defined in this section, and that is exempt under  
6 s. ~~ss.~~ 70.11 (27m), (39), and (39m) and 70.111 (27).

7 **SECTION 8.** 73.06 (3) of the statutes is amended to read:

8 73.06 (3) The department of revenue, through its supervisors of equalization,  
9 shall examine and test the work of assessors during the progress of their assessments  
10 and ascertain whether any of them is assessing property at other than full value or  
11 is omitting property subject to taxation from the roll. The department and such  
12 supervisors shall have the rights and powers of a local assessor for the examination  
13 of persons and property and for the discovery of property subject to taxation. If any  
14 property has been omitted or not assessed according to law, they shall bring the same  
15 to the attention of the local assessor of the proper district and if such local assessor  
16 shall neglect or refuse to correct the assessment they shall report the fact to the board  
17 of review. If it discovers errors in identifying or valuing property that is exempt  
18 under s. 70.11 (27m), (39), or (39m) or 70.111 (27), the department shall change the  
19 specification of the property as taxable or exempt and shall change the value of the  
20 property. All disputes between the department, municipalities and property owners  
21 about the taxability or value of property that is reported under s. 79.095 (2) (a) or of  
22 the property under s. 70.995 (12r) shall be resolved by using the procedures under  
23 s. 70.995 (8).

24 **SECTION 9.** 76.025 (1) of the statutes is amended to read:

1           76.025 (1) The property taxable under s. 76.13 shall include all franchises, and  
2 all real and personal property of the company used or employed in the operation of  
3 its business, excluding property that is exempt from the property tax under ~~s.~~ ss.  
4 70.11 (27m), (39), and (39m) and 70.111 (27), such motor vehicles as are exempt under  
5 s. 70.112 (5), and treatment plant and pollution abatement equipment exempt under  
6 s. 70.11 (21). The taxable property shall include all title and interest of the company  
7 referred to in such property as owner, lessee or otherwise, and in case any portion of  
8 the property is jointly used by 2 or more companies, the unit assessment shall include  
9 and cover a proportionate share of that portion of the property jointly used so that  
10 the assessments of the property of all companies having any rights, title or interest  
11 of any kind or nature whatsoever in any such property jointly used shall, in the  
12 aggregate, include only one total full value of such property.

13           **SECTION 10.** 76.81 of the statutes is amended to read:

14           **76.81 Imposition.** There is imposed a tax on the real property of, and the  
15 tangible personal property of, every telephone company, excluding property that is  
16 exempt from the property tax under ~~s.~~ ss. 70.11 (27m), (39), and (39m) and 70.111  
17 (27), motor vehicles that are exempt under s. 70.112 (5), property that is used less  
18 than 50% in the operation of a telephone company, as provided under s. 70.112 (4)  
19 (b), and treatment plant and pollution abatement equipment that is exempt under  
20 s. 70.11 (21). Except as provided in s. 76.815, the rate for the tax imposed on each  
21 description of real property and on each item of tangible personal property is the net  
22 rate for the prior year for the tax under ch. 70 in the taxing jurisdictions where the  
23 description or item is located. The real and tangible personal property of a telephone  
24 company shall be assessed as provided under s. 70.112 (4) (b).

25           **SECTION 11.** 79.095 (title) of the statutes is amended to read:

1           **79.095 (title) State aid; computers and research property.**

2           **SECTION 12.** 79.095 (2) (a) of the statutes is amended to read:

3           79.095 (2) (a) On or before May 1, the value of the property that is exempt under  
4           ~~s. ss. 70.11 (27m), (39), and (39m) and 70.111 (27)~~ in each taxing jurisdiction for which  
5           the municipality assesses property.

6           **SECTION 13.** 79.095 (3) of the statutes is amended to read:

7           79.095 (3) REVIEW BY DEPARTMENT. The department shall adjust each rate  
8           reported under sub. (2) (b) to a full-value rate. The department shall review and  
9           correct the information submitted under sub. (2) (a), shall determine the full value  
10          of all of the property reported under sub. (2) (a) and of all the property under s. 70.995  
11          (12r) and, on or before October 1, shall notify each taxing jurisdiction of the full value  
12          of the property that is exempt under ~~s. ss. 70.11 (27m), (39), and (39m) and 70.111~~  
13          (27) and that is located in the jurisdiction. The department shall adjust the full value  
14          that is reported to taxing jurisdictions under this subsection in the year after an error  
15          occurs or a value has been changed due to an appeal. All disputes between the  
16          department and municipalities about the value of the property reported under sub.  
17          (2) (a) or of the property under s. 70.995 (12r) shall be resolved by using the  
18          procedures under s. 70.995 (8).

19          **SECTION 14.** 79.095 (4) of the statutes is amended to read:

20          79.095 (4) PAYMENT. The department shall calculate the payments due each  
21          taxing jurisdiction under this section by multiplying the full value as of the January  
22          1 of the preceding year of the property that is exempt under ~~s. ss. 70.11 (27m), (39),~~  
23          and (39m) ~~and 70.111 (27)~~ and that is located in the jurisdiction by the full-value  
24          gross tax rate of the jurisdiction for the preceding year. The department shall certify  
25          the amount of the payment due each taxing jurisdiction to the department of

1 administration, which shall make the payments on or before the first Monday in May  
2 except that, beginning in 2007, the department of administration shall make the  
3 payments on or before the 4th Monday in July. For purposes of ch. 121, school  
4 districts shall treat the payments made in July under this subsection as if they had  
5 been received in the previous school year.

6 **SECTION 15.** 121.06 (4) of the statutes is amended to read:

7 121.06 (4) For purposes of computing state aid under s. 121.08, equalized  
8 valuations calculated under sub. (1) and certified under sub. (2) shall include the full  
9 value of property that is exempt under s. ss. 70.11 (27m), (39), and (39m) and 70.111  
10 (27) as determined under s. 79.095 (3).

11 **SECTION 16. Effective dates.** This act takes effect on the day after publication,  
12 except as follows:

13 (1) The treatment of section 77.54 (50) of the statutes takes effect on January  
14 1, 2009.

15 **SECTION 9343. Initial applicability; Revenue.**

16 (1) PROPERTY TAX EXEMPTION FOR RESEARCH PROPERTY. The treatment of sections  
17 38.28 (2) (b) 2., 70.11 (27m), 70.111 (27), 70.35 (1) and (2), 70.36 (1m), 70.995 (12r),  
18 73.06 (3), 76.025 (1), 76.81, 79.095 (title), (2) (a), (3), and (4), and 121.06 (4) of the  
19 statutes first applies to the property tax assessments as of January 1, 2012.

20 (END)